

was also withheld within the same document), the DoD Component shall advise the requester that:

(i) Section 3.5(c) of Executive Order 13526 Classified National Security Information allows for the denial of information when withholding it is authorized and warranted under applicable law.

(ii) Unclassified information exempt from public release pursuant to one or more exemptions of the FOIA has been withheld.

(3) For the denial of unclassified information, the requester shall not be given MDR appeal rights because the MDR applies only to the denial of classified information and because the request was not processed under the FOIA.

(4) The DoD Component is not required to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classified pursuant to Executive Order 13526 Classified National Security Information.

(j) *MDR Appeals.* MDR appeals are for the denial of classified information only. DoD Components shall make an appellate decision within 60 working days of receipt of an MDR appeal. If additional time is required to make a determination, the appellate authority shall notify the requester of the additional time needed and provide the requester with the reason for the extension. When the appellate review is complete, the appellate authority shall notify the requester in writing of the final determination and of the reasons for any denial. If the appellate authority determines that some information remains classified under the provisions of Executive Order 13526 Classified National Security Information, the requester will be advised of the right to appeal the final decision to the ISCAP within 60 days of the final Component decision, in accordance with section 5.3 of Executive Order 13526 Classified National Security Information.

(k) *FEES.* In responding to MDR requests, the DoD Components may charge fees as permitted by 32 CFR Part 2001. Fees for search, review, and reproduction shall be in accordance with the fee schedule in Appendix 2 of Chapter 4 of Volume 11A of DoD

7000.14-R (available at [http://comptroller.defense.gov/fmr/11a/11a\\_04.pdf](http://comptroller.defense.gov/fmr/11a/11a_04.pdf)).

[76 FR 80745, Dec. 27, 2011; 77 FR 745, Jan. 6, 2012]

#### APPENDIX A TO PART 222—ADDRESSING MDR REQUESTS

(a) *General.* The Department of Defense does not have a central repository for DoD records. MDR requests therefore should be addressed to the DoD Component that has custody of the requested record. If a requester is not sure which DoD Component has custody or if the DoD Component is not listed below, the MDR request should be directed to the Washington Headquarters Services in paragraph (b)(1) of this appendix.

(b) *DoD Component MDR Addresses:*

(1) *OSD and the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff.* Department of Defense, Washington Headquarters Services, Records and Declassification Division, Suite 02F09-02, 4800 Mark Center Drive, Alexandria, VA 22350-3100. EXCEPTION: DoD Inspector General, DoD Office of Inspector General, 400 Army Navy Drive, Arlington, VA 22202-4704.

(2) *Department of the Army.* U.S. Army Declassification Activity, Attention: AHRC-RDD, 8850 Richmond Highway, Suite 300, Alexandria, VA 22309.

(3) *Department of the Navy.*

(i) Department of the Navy, Chief of Naval Operations, CNO N09N2, 2000 Navy Pentagon, Washington, DC 20350-2000. (Collateral MDR).

(ii) Department of the Navy, Chief of Naval Operations, CNO N2/N6, 2000 Navy Pentagon, Washington, DC 20350-2000. (Sensitive Compartmented Information MDR).

(4) *Department of the Air Force.* Department of the Air Force, HAF/IMIO (MDR), 1000 Air Force Pentagon, Washington, DC 20330-1000.

(5) *United States Marine Corps.* Commandant of the Marine Corps, HQMC Code PP&O, Security Division (PS), 3000 Marine Corps Pentagon, Room 4A324, Washington, DC 20350-3000

(6) *Defense Advanced Research Projects Agency.* Defense Advanced Research Projects Agency, 3701 N. Fairfax Drive, Arlington, VA 22203-1714.

(7) *Defense Contract Audit Agency.* Director, Defense Contract Audit Agency, Attention: CPS, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060-6219.

(8) *Defense Information Systems Agency.* Defense Information Systems Agency, Attention: Security Division, MPS 6, 5111 Leesburg Pike, Suite 100, Falls Church, VA 22041.

(9) *Defense Intelligence Agency.* Defense Intelligence Agency, Attention: DAN-1A (FOIA), Washington, DC 20340-5100.

(10) *Defense Logistics Agency.* Defense Logistics Agency, Attention: DLA/DSS-S, 8725

John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

(11) *Defense Security Service*. Defense Security Service, Office of FOIA & Privacy, 1340 Braddock Place, Alexandria, VA 22314–1651.

(12) *Defense Threat Reduction Agency*. Defense Threat Reduction Agency, Attention: SCR 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

(13) *Missile Defense Agency*. Missile Defense Agency, Attention: MDA/DS, 7100 Defense Pentagon, Washington, DC 20301–7100.

(14) *National Geospatial-Intelligence Agency*. National Geospatial-Intelligence Agency, Mail Stop D–10, 4600 Sangamore Road, Bethesda, MD 20816–5003.

(15) *National Reconnaissance Office*. National Reconnaissance Office, NRO–MSO–ASG–IMSC–IART, 14675 Lee Road, Chantilly, VA 20151–1715.

(16) *National Security Agency/Central Security Service*. National Security Agency, Declassification Office, DJP5, 9800 Savage Road, Suite 6884, Fort George G. Meade, MD 20755–6884.

(17) *North American Aerospace Defense Command*. HQ NORAD/CSO, 250 Vandenberg St. Ste B016, Peterson AFB, CO 80914.

(18) *U.S. Africa Command*. US Africa Command, Unit 29951, ATTN: COS–FOIA, APO AE 09751.

(19) *U.S. Central Command*. U.S. Central Command, Attention: CCJ6–RDD, 7115 South Boundary Blvd., MacDill AFB, FL 33621–5101.

(20) *U.S. European Command*. U.S. European Command, Attention: ECJ1–AX, Unit 30400, APO AE 09131.

(21) *U.S. Joint Forces Command*. U.S. Joint Forces Command, Code J02SM, 1562 Mitscher Ave., Suite 200, Norfolk, VA 23511–2488.

(22) *U.S. Northern Command*. U.S. Northern Command, HQ USNORTHCOM/CSO, 250 Vandenberg Street, Suite B016, Peterson AFB, CO 80914–3804.

(23) *U.S. Pacific Command*. U.S. Pacific Command, Attention: J151 FOIA, Box 64017, Camp Smith, HI 96861–4017.

(24) *U.S. Southern Command*. U.S. Southern Command, Attention: SCJ2–SM–CFO (FOIA)”, 3511 NW 91st Avenue, Miami, FL 33172–1217.

(25) *U.S. Special Operations Command*. U.S. Special Operations Command, Attention: SOCS–SJS–SI (FOIA), 7701 Tampa Point Blvd., MacDill AFB, FL 33621–5323.

(26) *U.S. Strategic Command*. U.S. Strategic Command, Attention: CS50, 901 SAC Blvd., STE 1C17, Offutt AFB, NE 68113–6000.

(27) *U.S. Transportation Command*. U.S. Transportation Command, Chief, Command Information Management, ATTN: TCCSIM, 508 Scott Drive, Scott AFB IL 62225–5357.

(28) *Interagency Security Classification Appeals Panel* <http://www.archives.gov/isoo/oversight-groups/iscap/index.html>.

(29) *Principal Mandatory Declassification Review (MDR) Contacts at Federal Agencies*

<http://www.archives.gov/isoo/contact/mdr-contact.html>.

## PART 223—DOD UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)

### Sec.

223.1 Purpose.

223.2 Applicability.

223.3 Definitions.

223.4 Policy.

223.5 Responsibilities.

223.6 Procedures-identifying and controlling DoD UCNI.

223.7 Procedures-determination of DoD UCNI.

AUTHORITY: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

SOURCE: 77 FR 43506, July 25, 2012, unless otherwise noted.

### § 223.1 Purpose.

This part:

(a) Updates policies, assigns responsibilities and prescribes procedures for the implementation of 10 United States Code (U.S.C.) 128, which is the statutory basis for controlling unclassified information on the physical protection of DoD special nuclear material (SNM), SNM equipment, and SNM facilities. Such information is referred to as DoD UCNI, to distinguish it from a similar Department of Energy (DOE) program.

(b) Identifies the authority to be used for denying disclosure of DoD UCNI pursuant to 5 U.S.C. 552.

(c) Supplements security classification guidance contained in DoD Instruction 5210.67,<sup>1</sup> DOE classification guide CG–SS–4,<sup>2</sup> and DoD/DOE joint classification guides by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

### § 223.2 Applicability.

This part applies to:

(a) Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of

<sup>1</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/521067p.pdf>.

<sup>2</sup>Copies available to authorized recipients from the Director of Classification, Department of Energy.